IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

WA.No. 1446 of 2007

(WPC.29335 of 2006)

APPELLANT/ PETITIONER

A.J.JOHN, ALUNKAL HOUSE,
ANICKAD EAST P.O., KOTTAYAM.

BY ADV. SMT.DAISY A.PHILIPOSE

RESPONDENT/RESPONDENT

THE REGIONAL TRANSPORT AUTHORITY,
ERNAKULAM, REPRESENTED BY ITS SECRETARY.

BY SPECIAL GOVERNMENT PLEADER SHRI C.T. RAVIKUMAR.

This Writ Appeal having come up for admission on 11/07/2007, the Court on the same day delivered the following:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

.....

W.A. No. 1446 OF 2007

.....

Dated this the 11th July, 2007

J U D G M E N T

H.L. Dattu, C.J.:

Appellant/petitioner is a stage carriage operator. He has a regular permit to operate on the route Nedumkandam-Sreekantapuram in respect of a vehicle bearing registration No. KL-5W-4957. The permit, so issued, was for a period of five years and that would expire on 24.01.2007.

2. Before the expiry of the time granted in the permit, the petitioner had approached the Regional Transport Authority who had issued the permit, for renewal of the same. The renewal of the permit is granted by the Regional Transport Authority, with a condition that the owner of the vehicle would obtain countersignature from the sister Regional Transport Authority. Aggrieved by this direction, the owner of the vehicle was before this court in W.P. (C) No.29335 of 2006.

3. The learned single Judge, after referring to the provisions of Sections 81 and 88 of the Motor Vehicles Act (herein after referred to as 'Act) has come to the conclusion that the directions issued by the Regional Transport Authority, while granting renewal of the permit is justified and accordingly has rejected the Writ Petition. That is how, the owner of the vehicle is before us in this appeal.

4. Before us, at the time of hearing of the matter for admission, what was stressed by the learned counsel for the appellant is that under the provisions of Sections 81 and 88 of the Motor Vehicles Act, there is no

requirement of getting countersignature of the sister Regional Transport Authority in the case of renewal of permits and, therefore, the authority was not justified in issuing any direction while granting renewal of a permit.

5. Section 88 of the Act provides for validation of the permits for use outside the region in which it is granted. A permit granted by the Regional Transport Authority of any one region would not be valid in any other region unless the permit has been counter signed by the Regional Transport Authority of the other region and a permit granted in any one State shall not be valid in any other State unless counter signed by the State Transport Authority of that other State or by the Regional Transport Authority concerned, unless otherwise prescribed. Provisos appended to the Section need not be noticed by us. Sub-section (4) of Section 88 of the Act envisages that Chapter V of the Act relating to grant, revocation and suspension of permits shall apply to the grant, revocation and suspension of counter-signatures of permits.

6. Section 81 of the Act speaks of duration and renewal of permits. Prior to amendment, this Section read as under:-

> *"S.81(1): A permit other than a temporary permit issued under Section 87 or a special permit issued under sub-section (8) of Section 88, shall be effective for a period of five years".*

7. By Section 26 of Act 54 of 1994, which has come into effect from 1.4.1994, immediately after the words shall be effective, the words "from the date of issuance or renewal thereof" is inserted in the Section. The amended Section reads as under:-

> *"S.81. Duration and renewal of permits:- - (1) A permit other than a temporary permit issued under Section 87 or a*

special permit issued under sub-section (8) of Section 88 shall be effective from the date of issuance or renewal thereof for a period of five years:

Provided that where the permit is countersigned under sub-section (1) of Section 88, such countersignature shall remain effective without renewal for such period so as to synchronise with the validity of the primary permit."

8. By this amendment, the Parliament has fixed a duration of the permit other than a temporary permit or a special permit to be five years from the date of issuance of the permit or in the alternative from the date of renewal of the permit. It is now well settled law that grant of renewal of the permit is a fresh grant of permit though by that process the permit granted earlier is given fresh lease of life and, therefore, all the procedures that requires to be followed for grant of permit under Section 88 of the Act requires to be followed for renewal of permit, except as otherwise provided.

9. Proviso to Section 81(1) of the Act prescribes that where the permit is counter signed under sub-section(1) of Section 88 of the Act, such counter signatures shall be effective without renewal for such period as to synchronise with the validity of the primary permit. That only means the permit which is counter signed as envisaged under Section 88(1) of the Act shall be effective with the validity and duration of the permit. That again means the counter signature that is done will come to an end after the expiry of the duration and validity of the permit.

10. Under Section 88(1) of the Act, when a permit is granted by any one of the Regional Authority, the same shall not be valid in any other region

unless the permit has been counter signed by the Regional Transport Authority of that other region. As we have already noticed that the renewal of the permit is as good as a fresh grant of permit, the same requires to be counter signed by the sister Regional Transport Authority of that other region. Keeping these settled legal position, the learned Single Judge in our opinion has rightly rejected the writ petition. Therefore, there is no error in the impugned order, which would call for our interference. Accordingly, the Writ Appeal requires to be rejected and it is rejected.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

lk/DK